IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WP No. 17568 of 2006

Between :

M/s. Sai Ram Cotton Press & Industries .. Petitioner

And

The Joint Commissioner of Commercial Taxes (Legal), O/o Commissioner of Commercial Taxes, Hyderabad and two others .. Respondents

Dated : 11th September, 2006

ORAL ORDER : (per JC,J)

Writ Petition is filed with the prayer as follows :

> "For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the action of the 1st respondent in CCT's Ref. No.LV(4)/648/2006, dated 15.5.2006 as arbitrary, unjust and opposed to the principles of natural justice in dismissing the stay petition filed by the petitioner for the assessment years 2001-02 it amounts to clear violation of Section 5F read with Rule 6(2) and also contrary to the

judgments of this Hon'ble Court reported in 105 STC p.227 & 136 STC p.586 as also the judgment of the Tribunal reported in 29 APSTJ p.155 and consequently direct the 3rd respondent not take any coercive steps for recovery of the tax in dispute for the above mentioned assessment year pending disposal of the appeal on the file of the Sales Tax Appellate Tribunal and to grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case."

The petitioner is a partnership firm and assessee on the rolls of the 3rd respondent engaged in the business of Cotton Bail Pressing. For the assessment year 2001-02, the 3rd respondent determined the tax liability of the petitioner under the APGST Act by his proceedings dated 11.3.2005. Aggrieved by the said assessment, the petitioner carried the matter in appeal before the 2nd respondent. The appeal was dismissed by an order dated 29.12.2005. The petitioner carried the matter in further appeal before the Sales Tax Appellate Tribunal. During the pendency of the appeal, the petitioner sought stay of the recovery of the disputed tax before the 1st respondent. The 1st respondent rejected the said application by his order dated 15.5.2006. Hence the present writ petition.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage directing the respondents not to take any coercive steps for the recovery of the tax due from the petitioner for the above mentioned assessment year on condition the petitioner deposits 50% of the disputed tax within a period of four weeks from

today. The amount of tax if any paid already in connection with the above mentioned assessment year should be given credit to while computing the above mentioned amount of 50%. The writ petition is disposed of accordingly.

(J.CHELAMESWAR, J)

(M.VENKATESWARA REDDY,J)

11th September, 2006.

Knk